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Signed:

Peter K. Trzyna (Reg. No. 32,501)

Date

13 Dec 2001

PATENT

Paper No.

File: Proflowers-P1-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors : David McCarter, Jared Schutz

Serial No. : 09/776,956

Filed : February 5, 2001

For : GENERATING A COURIER SHIPPING LABEL OR THE LIKE, INCLUDING AN ORNAMENTAL GRAPHIC DESIGN, AT A NON-COURIER PRINTER

Group Art Unit : 2624

Examiner :

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

DECLARATION AND POWER OF ATTORNEY

S I R :

FAX RECEIVED

FEB 20 2002

PETITIONS OFFICE

With respect to the above-identified enclosed Patent Application, as a below-named inventor, I hereby declare that:

I am an above named joint inventor and have signed this declaration on my own behalf and also sign this declaration under 37 C.F.R. 1.47(a) on behalf of the omitted joint inventor particulars for whom are David McCarter, omitted inventor who refuses to sign. David McCarter is a citizen of the USA, and resides at 12213 Carmel Vista Road #235, San Diego, California, 92130. A Declaration of Facts in Support of Filing on Behalf of Omitted Inventor was previously filed. My residence and post office address, and citizenship, are correctly stated below.

I believe that I am an original and co-first inventor of the subject matter which is claimed and for which a patent is sought on the invention in the undersigned's above-identified Patent Application. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a)(b), and (c) which state in part:

(a)...Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned... There is no duty to submit information which is not material to the patentability of any existing claim... The Office encourages applicants to carefully examine:...

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;...

A prima facie case of unpatentability is established when the information

compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

I do not know and do not believe the invention was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application and that the same was not in public use or on sale in the United States of America more than one year prior to this application.

I hereby appoint the following as my attorney to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Peter K. Trzyna (Reg. No. 32,601).

Dec-13-01 10:40A

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issued thereon.

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